

Jonathan H. Siegel (California Bar No. 78143; *admitted pro hac vice*)
Heather Conger (California Bar No. 244958; *admitted pro hac vice*)
SIEGEL LEWITTER MALKANI
1939 Harrison Street, Suite 307
Oakland, California 94612
Phone: 510-452-5000
Fax: 510-452-5004
jsiegel@sl-employmentlaw.com
hconger@sl-employmentlaw.com

Attorneys for Plaintiff James Zako

Leon Greenberg (Nevada State Bar No. 8094)
LEON GREENBERG, P.C.
2965 South Jones Boulevard- Suite E3
Las Vegas, NV 89146
Phone: 702.383.6085
Fax: 702.385.1827
leongreenberg@overtimelaw.com

*Associated Local Counsel for Plaintiff Per
LR IA 11-2*

Jessica L. Woelfel (Nevada State Bar No. 11885)
Laura R. Jacobsen (Nevada State Bar No. 13699)
McDONALD CARANO WILSON, LLP
100 West Liberty Street, 10th Floor
Reno, Nevada 89501
Phone: 775-788-2000
Fax: 775-788-2020
jwoelfel@mcdonaldcarano.com
ljacobsen@mcdonaldcarano.com

Attorney for Defendant Hamilton Co.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA – LAS VEGAS

JAMES ZAKO,

Plaintiff,

v.

HAMILTON COMPANY,

Defendant.

Case No: 2:16-CV-00166-JCM-PAL

PROPOSED DISCOVERY PLAN AND
SCHEDULING ORDER

*Siegel
LeWitter
Malkani*

*1939 Harrison Street
Suite 307
Oakland, CA 94612
510-452-5000
510-452-5004 (fax)*

Plaintiff James Zako, by and through his counsel of record, Siegel LeWitter Malkani, and Defendant Hamilton Company, a Nevada corporation, by and through its counsel, McDonald Carano Wilson LLP, propose the following Joint Discovery Plan and Scheduling Order to the Court pursuant to Federal Rule of Civil Procedure 26(f)(3) and Local Rule 26-1:

Meeting of Counsel

1. The Rule 26(f) meeting was held on **June 20, 2016** and attended telephonically by Heather Conger, counsel for the Plaintiff, and Jessica Woelfel, of McDonald Carano Wilson LLP, counsel for the Defendant.

Alternative Dispute Resolution

2. Counsel certifies that they met and conferred about the possibility of using alternative dispute-resolution process including mediation, arbitration, and early neutral evaluation. Counsel believes that alternative dispute resolution should be explored more fully once the Defendants' motion to dismiss has been ruled upon (which may significantly narrow the matter) and/or the motion for class certification has been ruled upon.

Alternative Forms of Case Disposition

3. Counsel certifies that they considered consent to trial by a magistrate judge under 28 U.S.C. § 636(c) and Fed. R. Civ. P. 73 and the use of the Short Trial Program (General Order 2013-01). The parties are not willing at this time to use these options.

Subjects of Discovery

4. Discovery will be made on all claims asserted by Plaintiff and all defenses asserted by Defendant. The parties have agreed that discovery shall commence as to Mr. Zako only until the Court issues a ruling on the pending motion to dismiss, at which time the parties will meet and confer to discuss whether the scope of discovery should be expanded.

Initial Disclosures

5. Plaintiffs and Defendants shall provide their initial disclosure statements and documents to respective counsel by **July 18, 2016**.

///

*Siegel
LeWitter
Malkani*

1939 Harrison Street
Suite 307
Oakland, CA 94612
510-452-5000
510-452-5004 (fax)

Issues Related to Disclosure or Discovery of Electronically Stored Information

6. The parties do not believe that this case involves the use or misuse of electronic documents and/or systems. However, with respect to the production of electronically stored information, to the extent feasible, the parties agree that relevant electronically stored information, if any, will be exchanged by the parties in paper or in PDF format.

Issues Relating to Claims of Privilege or Attorney Work Product

7. A party who produces a document protected from disclosure by the attorney-client privilege, attorney work product doctrine or any other recognized privilege ("privileged document") without intending to waive the claim of privilege associated with such document may promptly, meaning within fifteen (15) days after the producing party actually discovers that such inadvertent disclosure occurred, amend its discovery response and notify the other party that such document was inadvertently produced and should have been withheld. Once the producing party provides such notice to the requesting party, the requesting party must promptly, meaning within seventy-two (72) hours, return the specified document(s) and any copies thereof. By complying with this obligation, the requesting party does not waive any right to challenge the assertion of privilege and request an order of the Court denying such privilege.

Limits on Discovery

8. At this time, discovery will be conducted in accordance with the Federal Rules of Civil Procedure and applicable Local Rules of the District Court, without limitation or modification of the same.

Discovery Cut-Off

9. The parties have agreed to submit a modified discovery plan once the Court has ruled on the pending motion to dismiss. The motion may limit the scope of the action, and will impact discovery cut off dates.

Amended Pleadings and Added Parties

10. Any motions to amend the pleadings or add parties should be filed within 30 days of the Court's ruling on the pending Motion to Dismiss or as otherwise ordered by the Court.

///

*Siegel
LeWitter
Malkani*

1939 Harrison Street
Suite 307
Oakland, CA 94612
510-452-5000
510-452-5004 (fax)

1 **Expert Disclosures**

2 11. The parties have agreed to submit a modified discovery plan once the Court has
3 ruled on the pending motion to dismiss. The motion may limit the scope of the action, and will
4 impact expert disclosure deadlines.

5 **Dispositive Motions**

6 12. The parties have agreed to submit a modified discovery plan once the Court has
7 ruled on the pending motion to dismiss. The motion may limit the scope of the action, and will
8 impact dispositive motion deadlines.

9 **Joint Pretrial Order**

10 13. The parties have agreed to submit a modified discovery plan once the Court has
11 ruled on the pending motion to dismiss. The motion may limit the scope of the action, and will
12 impact the date of the Joint Pretrial Order.

13 **Pretrial Disclosures**

14 14. The disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections thereto
15 shall be included in the Joint Pretrial Order.

16 **Interim Status Report**

17 15. The parties will file an Interim Status Report and Amended Proposed Discovery
18 Plan and Scheduling Order with the Court within 30 days of the Court's ruling on the pending
19 Motion to Dismiss. The parties will again discuss consent to trial by a magistrate judge under 28
20 U.S.C. § 636(c) and Fed. R. Civ. P. 73, use of the Short Trial Program (General Order 2013-01),
21 and the use of alternative dispute-resolution processes including mediation, arbitration, and early
22 neutral evaluation prior to the submission of this report.

23 **Extension of Deadlines**

24 16. Pursuant to Local Rule 26-4, a motion or stipulation to extend any deadline set
25 herein must be received by the Court no later than 21 days before the expiration of the subject
26 deadline. A request made within 21 days of the subject deadline must be supported by a showing
27 of good cause.

28 ///

*Siegel
LeWitter
Malkani*

*1939 Harrison Street
Suite 307
Oakland, CA 94612
510-452-5000
510-452-5004 (fax)*

1 **Settlement**

2 17. The parties have agreed to engage in settlement discussions after the Court rules on
3 the pending Motion to Dismiss.

4 **Protective Orders and Judicial Intervention**

5 18. The parties do not currently anticipate the need for the entry of any Order from the
6 Court pursuant to Fed. R. Civ. P. 26(c) or 16(b) and (c).

8 DATED: June 29, 2016

SIEGEL LEWITTER MALKANI

9
10 By: /s/ Heather Conger
Jonathan H. Siegel
11 Heather Conger

12 Attorneys for Plaintiff

14 DATED: June 29, 2016

MCDONALD CARANO WILSON, LLP

16 By: /s/ Jessica Woelfel
17 Jessica L. Woelfel
Laura R. Jacobsen

18 Attorneys for Defendant

20 IT IS SO ORDERED this 9th day
21 of August, 2016.

22
23 
24 Peggy A. Leen
United States Magistrate Judge

Siegel
LeWitter
Malkani

25
26 1939 Harrison Street
Suite 307
Oakland, CA 94612
510-452-5000
27 510-452-5004 (fax)
28